

RM-9196

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Warren Adrian RACHELS and Nancy Lee RACHELS

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DEC 11 1997

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Tampa, Florida  
33618-2562

Telephone  
813-961-3441

FCC MAIL ROOM  
Wednesday, November 26th, 1997

Secretary  
Federal Communications Commission  
1919 M Street N.W.  
Washington, D.C. 20554

RE: ARRL's Proposed Changes To Morse Code Waiver Rules

Gentlemen:

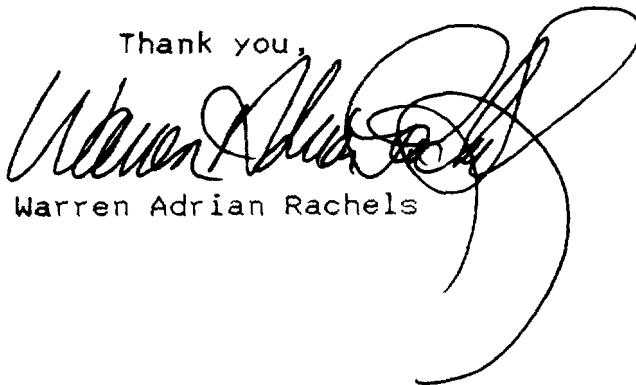
I wish to file the attached comment/objection to the Petition filed by the American Radio Relay League's on September 23rd, 1997, wherein they request a change to Morse Code waiver rules in the Amateur Radio Service. The Morse Code waiver rules are contained in Part 97.

I regret that I cannot supply a rulemaking number (RM) to the comment/objection because the enclosed article states a RM number has not been assigned. A copy of the article I base my comments upon is attached to this letter.

There are six(6) original signed comments/objection to the ARRL's filed Petition.

With kind regards, I

Thank you,



Warren Adrian Rachels

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fiscated by police under Florida's "scanner" law earlier this year. Osborn was involved in a minor accident last May and subsequently cited by police in Davie, Florida, allegedly for breaking state law by having radios in his car capable of receiving police frequencies. Although the law specifically exempts hams, Davie police impounded Osborn's equipment anyway because he could not produce his ham ticket—lost during a recent move. Even after Osborn showed Davie police a copy of his license, authorities refused to drop the charges or to return his radios. Osborn later learned that police might have tampered with his equipment, possibly damaging it and voiding warranties.

Alexander E. Kaplan, K4QBU, of Boca Raton—an ARRL Volunteer Counsel—represented Osborn. John Hennessee, N1KB, of the ARRL Regulatory Information Branch, supplied information on federal preemption.

Broward County Court Judge J. Steven Shutter dismissed the case dismissed in August. Shutter said the state law does not require hams to have their licenses in their possession, as local police had asserted. He also cited federal pre-emption of prosecution of hams under state and local laws that make it illegal to possess scanning radios capable of receiving public safety or emergency frequencies. Florida's law bans such scanners in vehicles and in retail stores, but not in homes.

Shutter ordered Davie police to return Osborn's radio equipment and to provide an affidavit specifying "who, what, when, where and how the radios were examined and what was done to them." Osborn has since recovered his radios.

### ARRL SEEKS CHANGES TO CW WAIVER RULES

The ARRL has asked the FCC to change the way Morse code exam exemptions for severely handicapped applicants are handled. The League wants to change the procedural requirements in Part 97 that must be met, prior to granting examination credit.

Under the League's proposed changes, a candidate at least would have to attempt the CW test—with any and all necessary accommodations—before being granted an exam waiver based on a physician's certification. Also, Volunteer Examiner Coordinators (VECs) would be entitled to request medical information pertinent to an applicant's handicap from the certifying physician. VECs also would be required to have this information on file before the application is forwarded to the FCC for processing.

In its petition filed September 23, the League said the two "rather minor changes" are needed to restrict the waiver process to use by severely handicapped individuals "for whom the process was intended in the first place and who deserve the substantive accommodation." The League also said the changes would "stem abuses" of the waiver system without putting unreasonable burdens on examinees.

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1	AA1SS	KE1IP	N1ZSQ	KB1CFD
2	AB2EH	KG2MP	++	KC2CLQ
3	AA3QI	KE3AJ	N3XKI	KB3BVI
4	AF4ES	KF4JB	++	KF4UEF
5	AC5NX	KM5ML	++	KD5CIQ
6	AD6DF	KQ6RZ	++	KF6NMB
7	AB7WM	KK7JG	++	KC7ZHD
8	AA8BG	KJ8DU	++	KC8IOH
9	AA9UY	KG9LK	++	KB9RLN
N Mariana Island	NH0B	AH0AY	KH0GT	WH0ABI
Guam	++	AH2DE	KH2SL	WH2ANV
Hawaii	AH7V	AH6PD	KH7GU	WH6DEI
American Samoa	AH8P	AH8AH	KH8DK	WH8BFI
Alaska	AL0F	AL7QU	KL0KK	WL7CJM
Virgin Islands	++	KP2CM	NP2JT	WP2AIJ
Puerto Rico	NP3O	KP3BC	NP3RE	WP4NMM

++ All call signs in this group have been issued in this district.

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FCC rules requires volunteer examiners

to exercise broad latitude in administering CW exams to accommodate handicapped applicants. Instead, the League observed in its filing, there is "a tendency for applicants to seek exemptions instead" of accommodations.

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An FCC administrative law judge has reaffirmed his decision to not renew the operator and station licenses of Herbert L. Schoenbohm, KV4FZ, of Kingshill, Virgin Islands, but the saga continues. Early last year, FCC Administrative Law Judge Edward Luton determined the Commission should not renew Schoenbohm's ham ticket, but Schoenbohm filed exceptions. The FCC remanded the case to Luton. His supplemental initial decision September 30 contained additional findings of fact and reaffirmed his earlier decision.

Schoenbohm's attorney said he planned to file exceptions to the judge's most recent decision. If that is unsuccessful, he still has a judicial appeal (US Circuit Court of Appeals, District of Columbia) available to him. In the meantime, Schoenbohm may continue to operate.

In late 1992, Schoenbohm, now 57, was found guilty in US District Court of using a "counterfeit access device" to make long-distance telephone calls. While his initial conviction did not specifically involve breaking FCC regulations, Schoenbohm eventually ran directly afoul of the Commission, which said his conviction "is relevant to evaluating the likelihood that he will comply" with the FCC's Amateur Radio rules.

In early 1994, the FCC designated his application to renew his ham radio license for a hearing, but extended the expiration date of the license until the matter could be settled.

Luton concluded after the hearing that

### ROBERT M. MORRIS, W2LV, SK

Inventor, researcher and radio pioneer Bob Morris, W2LV, of Sparta, New Jersey, died October 15. He was 95. Morris was first licensed in 1922 as 2CQZ. He became 2LV (later W2LV) in the late 1940s. Early in his amateur career, Morris' 2CQZ running a spark gap transmitter was among the stations heard in Great Britain and in Europe during the ARRL's Third Transatlantic Tests (see QST, Feb. 1923). He later worked with Edwin A. Armstrong, the man credited with inventing FM.

A noted broadcasting historian and storyteller, Morris appeared on Ken Burns' PBS documentary *Empire of the Air—the Men who Made Radio*. He was a member of the ARRL for 75 years, a founding member of the Antique Wireless Association and of the New Jersey DX Association, and a member of the Sussex County Amateur Radio Club.

Survivors include his wife, Dorothy, a son and daughter, and several grandchildren and great-grandchildren. The family has asked that donations in Bob Morris' memory be made to the Antique Wireless Association, c/o Dexter Feeley, Treasurer, 5 Briar Cl., Rochester, NY 14618.—thanks to Don McKay, K2TTP

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of: )

)  
)  
Amendments of Section 97 )  
as it relates to proposed )  
changes in the way Morse )  
Code exemptions for severely )  
handicapped applicants are )  
handled in the Amateur )  
Radio Service Rule(s). )

RM -

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FCC MAIL ROOM

COMMENT/OBJECTION TO THE AMERICAN RADIO RELAY  
LEAGUES'S PETITION OF SEPTEMBER 23RD, 1997  
FOR CHANGES IN THE MORSE CODE EXEMPTION  
PROCEDURES FOR SEVERELY HANDICAPPED  
APPLICANTS IN THE AMATEUR RADIO SERVICE

I am WARREN ADRIAN RACHELS and reside at 3224 Taragrove Drive,  
Tampa, Florida 33618-2562, Telephone 813-961-3441. I current hold  
Advanced License WA4UQL in the Amateur Radio Service. I have been  
continuously licensed since 1976.

I object to the American Radio Relay Leagues's September 23rd,  
1997, PETITION FOR CHANGES IN THE MORSE CODE EXEMPTION PROCEDURES  
FOR SEVERELY HANDICAPPED APPLICANTS IN THE AMATEUR RADIO SERVICE  
for the following reasons:

1. Rule 97-509(k) requires special accommodation procedures  
are available to handicapped individuals for all code test elements  
at all exam sessions. Since May 1997, I have been to four(4) code  
examinations to up grade from five(5) words per minute to 13 and/or  
20 words per minute. At none of these examination did the  
volunteer examiners have any alternative procedures. The  
examination was from cassette tapes via ear phones. The  
examinations have been administered by both W5YI and ARRL Volunteer

Examiners.

2. The proposed modifications would require a candidate to attempt a Morse Code test with any and all necessary accommodations prior to being granted a waiver. At the examinations I have attended had an applicant wanted or desired accommodations the requested accommodation could not have been provided. Why require a failure of a test under special accommodations before granting exemption when the Volunteer Examiners are unable to provide the special accommodations if requested?

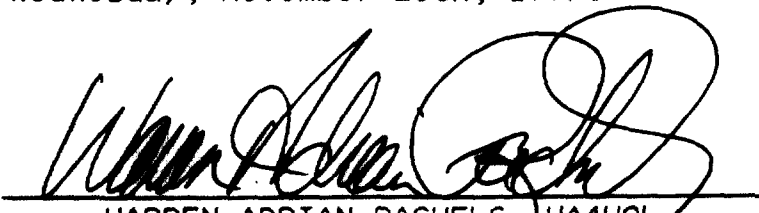
3. The proposed modification would permit the Volunteer Examiner Coordinators to request medical information pertinent to an applicant's handicap from the certifying physician and to have this information on file before the application is forwarded to the FCC for processing. By implication the ARRL is requesting the right and the requirement of the VEC to evaluate the certifying physician diagnosis and conclusions. What if the VEC concludes the certifying physician is wrong or incorrect based upon the physician's medical statement. Who would be correct the certifying physician or the VEC? Since the certifying physician is supplying information to the VEC, logic says if the VEC is in disagreement the application will be held up and/or possibility not processed. The VEC is not the FCC and does not have any reason to know anything more than what is currently contained in the certifying physician's statement. If the FCC wishes additional information this right of inquiry and determination is granted to the FCC by the applicant.

4. The proposed modification would require the Volunteer

Examiner Coordinator to have information in support from the certifying physician on file before the application is processed. In addition to the reasons expressed in Paragraph 2 above, there is the question of the security, both internally and externally, of the applicant's medical information. Also raised is the question of just how much information would have to be provided the VEC by the certifying physician. Both of these questions are open ended. If the FCC wishes to know the extent and basis of the medical exemption, then it not the VEC should make the enquiry, that is from medical personnel at the FCC to the certifying physician when there is a reasonable basis to believe the certification has been improperly granted.

**WHEREFORE**, based upon the reasons stated, it is requested that the American Radio Relay League's September 23rd, 1997, **PETITION FOR CHANGES IN THE MORSE CODE EXEMPTION PROCEDURES FOR SEVERELY HANDICAPPED APPLICANTS IN THE AMATEUR RADIO SERVICE** be denied in total. Attached is a copy of the article upon which I base my knowledge of the contents of the Petition.

Dated: Wednesday, November 26th, 1997.



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WARREN ADRIAN RACHELS, WA4UQL  
3224 Taragrove Drive  
Tampa, Florida 33618-2562  
Telephone 813-961-3441

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5	AC5NX	KM5ME	++	KD5CIQ
6	AD6DF	KQ6RZ	++	KF6NMB
7	AB7WM	KK7MB	++	KC7ZHD
8	AB8BG	KJ8DU	++	KC8IOH
9	AA9UY	KG9LK	++	KB9RLN
N Mariana Island	NH0B	AH0AY	KH0GT	WH0ABI
Guam	++	AH2DE	KH2SL	WH2ANV
Hawaii	AH1V	AH6PD	KH7GU	WH6DEI
American Samoa	AH8P	AH8AH	KH8DK	WH8ABF
Alaska	AL0F	AL7QU	KL0KK	WL7CUM
Virgin Islands	++	KP2CM	NP2JT	WP2AIJ
Puerto Rico	NP3O	KP3BC	NP3RE	WP4NMM

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